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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 082,083	02 26 2002	Toshiki Tari	50212-351	8602
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MCDERMOTT WILL & EMERY 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			EXAMINER	
			DOAN, JENNIFER	
		ART UNIT	PAPER NUMBER	
			2874	

DATE MAILED: 12/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/082,083	Applicant(s)	TARU ET AL.
Examiner		Art Unit	2874
Jennifer Doan			

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any named patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/arc allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 February 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

- 4) Interview Summary (PTO-413) Paper No(s). _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings, filed on 02/26/2002, are accepted.

Specification

3. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dong et al. (U.S. Patent 6,009,222).

Dong et al. disclose (Figs. 1a and 1b) an optical fiber (10) comprising a core region (20) having a first refractive index with a UV photosensitivity (column 4, lines 31-44); an inner cladding region (30) surrounding the core region (20) and having a second refractive index lower than the first refractive index with a UV photosensitivity (column 4, lines 33-65) and an outer cladding region (40) surrounding the inner cladding region (30) and having a third refractive index lower than the first refractive index (column 4, lines 36-41); wherein the average value of UV photosensitivity in the core region is different from that of the inner cladding region (column 6. lines 40-48 and column 10, lines 13-20) and further wherein the optical fiber having a refractive index modulation formed in a predetermined area along a longitudinal direction of that as shown in Figs. 1a, 1b and 2.

Dong et al. disclose all the limitations of the claimed invention except for the deviation of UV photosensitivity over of the core region and the inner cladding region $\pm 10\%$ or less as recited in claims 1-3. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the deviation of UV photosensitivity over of the core region and the inner cladding region $\pm 10\%$ or less, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Dong et al. disclose all the limitations of the claimed invention except for the deviation of UV photosensitivity over of the core region and the inner cladding region $\pm 5\%$ or less as recited in claim 4. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the deviation of UV photosensitivity over of the core region and the inner cladding region $\pm 5\%$ or less, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dong et al. (U.S. Patent 5,881,197) disclose an optical fiber and Paek et al. (U.S. Patent 6,307,994) disclose long-period fiber gratings.

Art Unit: 2874

8. The prior art documents submitted by applicant in the Information Disclosure Statement filed on 02/26/2002, have all been considered and made of record. (Note the attached copies of form PTO-1449).

9. Any inquiry concerning the merits of this communication should be directed to Examiner Jennifer Doan whose telephone number is (703) 308-6179. The examiner can normally be reached on Monday to Thursday from 6:30am to 4:00pm, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick, can be reached on (703) 308-4819. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JD *JD*

December 9, 2002

